

REMARKS

Claims 1-40 were pending in the application. The Examiner was of the opinion that there were multiple species of the invention which he identifies as Figures 2, 7, 8, and 8a. The Applicant previously elected to prosecute claims 1-8, 10-34, and 36-37, all of which read on Figure 2.

The Examiner has now required election between what he identifies as two unrelated inventions, i.e. the invention claimed in claims 1-8 and 10-34 and the invention claimed in claims 36 and 37. The requirement is traversed as follows.

The Examiner's restriction requirement is based on the observation that the preambles of claims 36 and 37 refer to a kit whereas the other claims refer to an apparatus which the Examiner identifies as a surgical instrument. Without any regard to the language of the claims, the Examiner states that "kits are used for the packaging and marketing of surgical products, and therefore, are not used together with the surgical instruments to perform surgical procedures." It is respectfully submitted that regardless of the correctness of this statement, it does not address the claims in a substantive manner. The table below compares claim 15 with claim 36. It should be seen that the claims are very closely related and that the kit claim does not contain any reference to "packaging and marketing".

15. An apparatus for delivering an intravascular drug, said apparatus comprising:	36. A kit for the intravascular treatment of a blood vessel, said kit comprising:
a) a catheter having a proximal end, a distal end, and a lumen extending from its proximal end to its distal end;	a) a catheter having an expandable balloon at its distal end and a drug delivery lumen; and
b) a drug reservoir having a drug outlet, said drug outlet being fluidly coupled to the proximal end of the lumen of the catheter,	b) a drug dispenser having a drug reservoir fluidly coupled to said drug delivery lumen, wherein
c) dispensing means coupled to said drug reservoir, said dispensing means being adapted to automatically dispense the drug from the reservoir into the lumen of the catheter as the catheter is moved through a blood vessel.	said drug dispenser includes means for automatically dispensing a drug from said drug reservoir into said drug delivery lumen in response to movement of said catheter through the blood vessel.

Claim 37 depends from claim 36 and states that the drug reservoir includes a syringe with a plunger and the means for automatically dispensing includes means for depressing the plunger.

In light of all of the above, it is submitted that all of claims 1-8, 10-34, and 36-37 are in order for examination, and prompt examination is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

  
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